

1 VERSO LAW GROUP LLP
2 GREGORY S. GILCHRIST (Cal. Bar No. 111536)
3 RYAN BRICKER (Cal. Bar No. 269100)
4 SOPHY J. TABANDEH (Cal. Bar. No. 287583)
5 PAYMANEH PARHAMI (Cal. Bar No. 335604)
6 209 Kearny Street, Third Floor
7 San Francisco, California 94108
8 Telephone: (415) 534-0495
9 Facsimile: (270) 518-5974
10 Email: greg.gilchrist@versolaw.com
11 ryan.bricker@versolaw.com
12 paymaneh.parhami@versolaw.com
13 sophy.tabandeh@versolaw.com

14 Attorneys for Plaintiff
15 PATAGONIA, INC.

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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION – LOS ANGELES

PATAGONIA, INC.,

Plaintiff,

v.

MIKE HAMPTON DBA MIKE
HAMPTON ART,

Defendant.

Case No. 2:23-cv-06932

**COMPLAINT FOR TRADEMARK
INFRINGEMENT, UNFAIR
COMPETITION, DILUTION,
COPYRIGHT INFRINGEMENT**

JURY TRIAL DEMAND

20 This lawsuit is necessary to stop Mike Hampton dba “Mike Hampton Art”
21 (“Defendant” or “Mr. Hampton”) from infringing, misusing, and trading on
22 Patagonia, Inc.’s famous trademarks and copyrights. Mr. Hampton sells a range of
23 T-shirts, hats, stickers, and other products bearing deceptively similar and derivative
24 copies of Patagonia’s original P-6 logo. Mr. Hampton previously promised to stop
25 selling these exact designs as part of a settlement agreement with Patagonia to
26 resolve the parties’ prior dispute. However, Patagonia recently discovered that Mr.
27 Hampton either (a) never ceased his sales, or (b) resumed selling these infringing
28 designs notwithstanding his commitments in the agreement.

Examples of Defendant's infringing products follows:



To prevent further damage to Patagonia and its brand, Patagonia alleges as follows:

PARTIES, JURISDICTION, AND VENUE

1. Patagonia, Inc. ("Patagonia") is a California corporation headquartered at 259 West Santa Clara Street, Ventura, California 93001. Patagonia has been designing, developing, marketing, and selling outdoor apparel, accessories, and active sportswear for nearly fifty years. Patagonia's PATAGONIA brand and P-6 logo are famous in the United States and around the world, and instantly recognized by consumers as a symbol of innovative apparel designs, quality products, and environmental and corporate responsibility.

2. Mike Hampton dba Mike Hampton Art is a California resident, and on information and belief, resides at 58 Tamalpais Road, Berkeley, CA 94708 and conducts business from 206 Broadway, Oakland, CA 94607.

3. Defendant offers, promotes, and sells products throughout the country that infringe Patagonia's intellectual property rights through a variety of channels, including online through his website located at www.MikeHamptonArt.com, Instagram account located at <https://www.instagram.com/mikehamptonart/>, and

1 Twitter account located at <https://twitter.com/MikeHamptonArt>.

2 4. Patagonia's trademark claims arise under the Trademark Act of 1946
3 (the Lanham Act), as amended by the Trademark Dilution Revision Act of 2006
4 (15 U.S.C. §§ 1051, *et seq.*). Patagonia's claims for copyright infringement arise
5 from Defendant's infringement of Patagonia's exclusive rights under the United
6 States Copyright Act (17 U.S.C. §§ 101, *et seq.*). This Court has jurisdiction over
7 such claims pursuant to 28 U.S.C. §§ 1338(a) and 1338(b) (trademark and unfair
8 competition), 17 U.S.C. § 501 (copyright), 28 U.S.C. § 1331 (federal question), and
9 15 U.S.C. § 1121 (Lanham Act). This Court has jurisdiction over the state law
10 claims under 28 U.S.C. § 1367 (supplemental jurisdiction) and 28 U.S.C. § 1332
11 (diversity).

12 5. This Court has personal jurisdiction over Defendant because Defendant
13 has purposefully availed himself of the privilege of doing business in this district.
14 Defendant sells and ships his infringing products to customers in this district.
15 Defendant advertises and promotes his infringing products to purchasers in
16 California and this district through at least www.MikeHamptonArt.com,
17 <https://www.instagram.com/mikehamptonart/>, and
18 <https://twitter.com/MikeHamptonArt>, which are all accessible to residents of this
19 district. Defendant has also directed his conduct into this district, including
20 individually targeting Patagonia, a corporation with its principal place of business in
21 this district, by infringing its trademarks and copyrights.

22 6. Venue is proper in this Court under 28 U.S.C. §§ 1391(b) and 1400(a)
23 because Defendant infringes Patagonia's intellectual property in this district,
24 transacts business in this district, and a substantial part of the events giving rise to
25 the claims asserted arose in this district.

26 **FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS**

27 **Patagonia's History**

28 7. Patagonia was founded in the late 1960s to design and sell climbing

1 clothes and other active sportswear. The company adopted the brand
2 “PATAGONIA” to differentiate a related business that designed and manufactured
3 climbing gear and tools. PATAGONIA was chosen as the trademark to call to mind
4 romantic visions of glaciers tumbling into fjords, jagged windswept peaks, gauchos,
5 and condors. Since at least 1973, the PATAGONIA brand has appeared on a multi-
6 colored label inspired by a silhouette of the jagged peaks of the Mt. Fitz Roy skyline
7 (the “P-6 logo”).


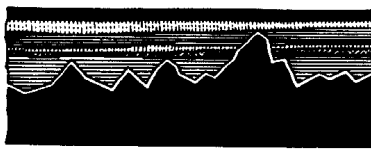
8 8. In the nearly-fifty years since Patagonia’s business started, the
9 PATAGONIA brand and its P-6 logo have become among the most identifiable
10 brands in the world. Patagonia’s products now include a wide range of apparel
11 products and equipment, including T shirts, hoodies, sweatshirts, and fleece, as well
12 as technical products designed for climbing, skiing and snowboarding, surfing, fly
13 fishing, and trail running, which are sold around the world.


14 9. Over the years, Patagonia has been recognized and honored for its
15 business initiatives, including receiving the Sustainable Business Counsel’s first
16 “Lifetime Achievement Award.” In 1996, with an increased awareness of the
17 dangers of pesticide use and synthetic fertilizers used in conventional cotton
18 growing, Patagonia began the exclusive use of organically grown cotton and has
19 continued that use for more than twenty years. It was a founding member of the
20 Fair Labor Association®, which is an independent multi-stakeholder verification and
21 training organization that audits apparel factories. Additionally, since 1985
22 Patagonia has pledged 1% of sales to environmental groups to preserve and restore
23 our natural environment, donating more than \$100 million to date. In 2002,
24 Patagonia’s founder, Yvon Chouinard, along with others, created a non-profit called
25 1% For the Planet® to encourage other businesses to do the same. Today, more
26 than 1,200 member companies have donated more than \$150 million to more than
27 3,300 nonprofits through 1% For the Planet. In 2012, Patagonia became one of
28 California’s first registered Benefit Corporations, ensuring Patagonia could codify

into its corporate charter consideration of its workers, community, and the environment. In 2016, Patagonia pledged to donate all revenue from sales on Black Friday, donating \$10 million to environmental grantees in response to customers' purchases on that day. In 2018, Patagonia pledged an additional \$10 million in grants to environmental groups in response to recent tax cuts given to businesses. Over the course of two weeks in December 2019, Patagonia matched another \$10 million in donations to environmental and other grassroots organizations. Patagonia's owners recently donated their holdings in the company to support initiatives and innovations addressing climate change

Patagonia's Trademarks

10. Patagonia owns numerous registrations for its distinctive P-6 logo and PATAGONIA trademark, covering a wide-ranging assortment of products. Among these are the following U.S. trademark registrations:

Trademark	Reg. No. / Reg. Date	Goods	Date of First Use
PATAGONIA	1189402 / Feb. 9, 1982	Men's and Women's Clothing-Namely, Sweaters, Rugby Shirts, Walking Shorts, Trousers, Jackets, Mittens, Hoods and Rainwear	08/1974
	1294523 / Sept. 11, 1984	Men's, Women's and Children's Clothing-Namely, Jackets, Pants, Vests, Gloves, Pullovers, Cardigans, Socks, Sweaters, Underwear, Shirts, Shorts, Skirts and Belts	08/1974- 1981
	1547469 / July 11, 1989	Men's, Women's and Children's Clothing- Namely, Jackets, Pants, Shirts, Sweaters, Vests, Skirts, Underwear Tops and Bottoms, Socks, Gloves, Mittens, Hats, Face Masks, Balaclava, Gaiters, Suspenders, and Belts	08/1974- 1981

Trademark	Reg. No. / Reg. Date	Goods	Date of First Use
	1775623 / June 8, 1993	Luggage back packs, and all-purpose sports bags	08/1988
PATAGONIA	1811334 / Dec. 14, 1993	Luggage, back packs, fanny packs and all-purpose sport bags, footwear, ski bags and ski gloves	08/1990
PATAGONIA	2260188 / July 13, 1999	Computerized on-line ordering activities in the field of clothing and accessories; Providing information in the field of technical clothing and accessories for use in recreational, sporting and leisure activities; providing information in the field of existing and evolving environmental issues	10/1995
PATAGONIA	2662619 / Dec. 17, 2002	Retail store services featuring clothing, footwear, luggage and a wide variety of sporting goods and accessories	06/1986
PATAGONIA	5491401 / June 12, 2018	Reusable bottles sold empty; insulated containers for food or beverage for domestic use; cups, mugs and growlers	09/2014
PATAGONIA	5561006 / Sept. 11, 2018	Stickers; paper banners; fiction and non-fiction books on a variety of topics; posters; non-magnetically encoded gift cards; photographs	12/1991

These registrations for the PATAGONIA mark and logos are in full force and effect. The registrations have become incontestable under 15 U.S.C. § 1065. A color image of the P-6 logo follows:



Collectively, these marks, Patagonia's other registered trademarks, and its common law marks are referred to as the "PATAGONIA trademarks." Patagonia also owns a registered copyright (Registration No. VA 1-801-788) for the P-6 logo.

11. The PATAGONIA trademarks are distinctive, arbitrary and fanciful, entitled to the broadest scope of protection, and certain of the PATAGONIA trademarks are registered worldwide.

12. For many years prior to the events giving rise to this Complaint and continuing to the present, Patagonia annually has spent enormous amounts of time, money, and effort advertising and promoting the products on which its PATAGONIA trademarks are used. PATAGONIA brand products are advertised in a variety of contexts and media, including in print and on the Internet. In addition to advertising by Patagonia, the PATAGONIA trademarks are also advertised and promoted and presented at point of sale by numerous retailers. Consumers, accordingly, are exposed to the PATAGONIA trademarks in a wide range of shopping and post-sale contexts.

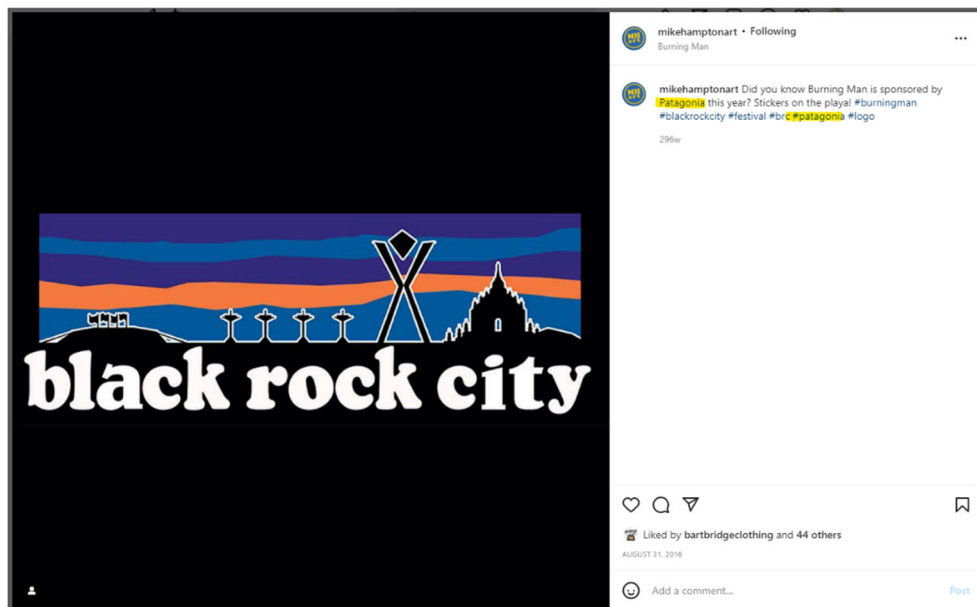
13. Patagonia has sold its PATAGONIA brand products all over the world, including throughout the United States and California. Through its promotion and investment in its brand and extensive sales, publicity, awards, and leadership in sustainable sourcing practices, Patagonia has acquired enormous goodwill in its PATAGONIA trademarks. The PATAGONIA trademarks are famous within the meaning of the Trademark Dilution Revision Act, enjoy strong consumer recognition, and are recognized around the world and throughout the United States by consumers as signifying high quality products made by a responsible company.

Defendants' Infringement of Patagonia's Rights

14. In blatant disregard of Patagonia's rights in the PATAGONIA trademarks—and without authorization from Patagonia—Defendant has promoted, offered for sale, and sold products, including shirts, hats, and stickers, bearing designs and logos that are deceptively similar to and derivative of the P-6 logo.

15. Mr. Hampton is and has been misappropriating the P-6 logo as his own source identifier by using it in a number of contexts, including by copying it in combination with terms and design elements that are the property of Lucasfilm, and by using imitations of the logo in connection with city and event names, such as NOLA and Burning Man. Examples are below.





These designs and logos, and the products bearing them, are referred to as Defendant's "Infringing Designs."

16. Consumers inevitably will assume that Patagonia has endorsed or authorized the Infringing Designs, because Mr. Hampton has sold and is selling these products alongside logos and designs that copy well-known sports teams and

1 their logos, each of which is either genuinely licensed or potentially counterfeit.
2 Examples are below.



1 17. The Infringing Designs are deceptively similar to and derivative of the
2 P-6 logo artwork and registered P-6 logo trademarks. Defendant's products bearing
3 the Infringing Designs are identical to and compete directly with goods sold by
4 Patagonia, including shirts, hats, and stickers.

5 18. Defendant's use of the Infringing Designs has caused or will cause a
6 likelihood of confusion among consumers regarding the source of Defendant's
7 products, and whether Patagonia has sponsored, licensed, authorized, or is somehow
8 affiliated with the Defendant.

9 19. Defendant began using the Infringing Designs long after the
10 PATAGONIA trademarks became famous. The Infringing Designs have caused or
11 are likely to cause dilution of Patagonia's famous and distinctive marks by
12 diminishing their distinctiveness and singular association with Patagonia. Patagonia
13 has no alternative but to protect its goodwill and famous trademark by obtaining an
14 injunction against Defendant's further use of the derivative trademark and designs.

15 20. Patagonia is informed and believes that Defendant has marketed and
16 sold substantial quantities of products bearing the Infringing Designs, and has
17 profited and continues to profit from such sales.

18 21. There is no doubt that Defendant's conduct has been willful. Patagonia
19 raised concerns about Mr. Hampton's use of the Infringing Designs – each of which
20 constitutes a mark or logo that copies the PATAGONIA trademarks as part of Mr.
21 Hampton's own branding – in 2022. To settle that dispute, and in exchange for
22 Patagonia's agreement not to proceed with a lawsuit at that time, Mr. Hampton
23 entered a settlement agreement with Patagonia on December 23, 2022, through
24 which he promised to refrain from producing, promoting or selling the Infringing
25 Designs. Mr. Hampton resumed selling these same exact designs at least as early as
26 July 25, 2023. On information and belief, Mr. Hampton's resumed sales have been
27 made in-person in an attempt to avoid detection by Patagonia (e.g., San Diego
28 Comic Con).

1 22. Defendant's actions have caused and will cause Patagonia irreparable
2 harm for which money damages and other remedies are inadequate. Unless
3 Defendant is restrained by this Court, Defendant will continue expanding his illegal
4 activities and otherwise continue to cause irreparable damage and injury to
5 Patagonia by, among other things:

6 a. Depriving Patagonia of its statutory rights to use and control
7 use of its trademark;

8 b. Creating a likelihood of confusion, mistake, and deception
9 among consumers and the trade as to the source of the infringing products;

10 c. Causing the public falsely to associate Patagonia with
11 Defendant and/or his products;

12 d. Causing the public falsely to believe Patagonia has collaborated
13 with Defendant, entered a co-branding relationship with Defendant, or is otherwise
14 associated with Defendant and/or his products;

15 e. Causing incalculable and irreparable damage to Patagonia's
16 goodwill and diluting the capacity of its famous PATAGONIA trademarks to
17 differentiate its products from those of its competitors;

18 f. Causing incalculable and irreparable damage to Patagonia's
19 licensing and collaboration programs, and to Patagonia's ability to control its
20 brand partnerships and to associate itself with entities who are specifically
21 aligned to Patagonia's company mission; and

22 g. Causing Patagonia to lose sales of its genuine PATAGONIA
23 products.

24 23. Accordingly, in addition to other relief, Patagonia is entitled to
25 injunctive relief against Defendant.

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FIRST CLAIM

FEDERAL TRADEMARK INFRINGEMENT

(15 U.S.C. §§ 1114-1117)

24. Patagonia realleges and incorporates by reference each of the allegations contained in paragraphs 1 through 23 of this Complaint.

25. Defendant has used, in connection with the sale, offering for sale, distribution, or advertising of his products bearing the Infringing Designs, words and symbols that infringe upon Patagonia's PATAGONIA trademarks.

26. These acts of trademark infringement have been committed with the intent to cause confusion, mistake, or deception, and are in violation of 15 U.S.C. § 1114. Defendant's willfulness is displayed in his decision to sell infringing products just months after executing a settlement agreement through which Defendant agreed to cease use of those exact designs.

27. As a direct and proximate result of Defendant's conduct, Patagonia is entitled to recover up to treble the amount of Defendant's unlawful profits and Patagonia's damages and an award of attorneys' fees under 15 U.S.C. § 1117(a).

28. Patagonia is entitled to injunctive relief pursuant to 15 U.S.C. § 1116(a) that requires Defendant to stop use of the Infringing Designs, and any other mark or design similar to the PATAGONIA trademarks.

SECOND CLAIM

FEDERAL UNFAIR COMPETITION

(False Designation of Origin and False Description – 15 U.S.C. § 1125(a))

29. Patagonia realleges and incorporates by reference each of the allegations contained in paragraphs 1 through 28 of this Complaint.

30. Defendant's conduct as alleged in this Complaint constitutes the use of symbols or devices tending falsely to describe the infringing products, within the meaning of 15 U.S.C. § 1125(a)(1). Defendant's conduct is likely to cause confusion, mistake, or deception by or in the public as to the affiliation, connection,

1 association, origin, sponsorship, or approval of the infringing products to the
2 detriment of Patagonia and in violation of 15 U.S.C. § 1125(a)(1).

3 31. As a direct and proximate result of Defendant's conduct, Patagonia is
4 entitled to recover up to treble the amount of Defendant's unlawful profits and
5 Patagonia's damages, and an award of attorneys' fees under 15 U.S.C. § 1117(a).

6 32. Patagonia is entitled to injunctive relief pursuant to 15 U.S.C. § 1116(a)
7 that requires Defendant to stop use of the Infringing Designs, and any other mark or
8 design similar to the PATAGONIA trademarks.

9 **THIRD CLAIM**

10 **FEDERAL DILUTION OF FAMOUS MARK**

11 **(Trademark Dilution Revision Act of 2006, 15 U.S.C. § 1125(c))**

12 33. Patagonia realleges and incorporates by reference each of the allegations
13 contained in paragraphs 1 through 32 of this Complaint.

14 34. Patagonia's PATAGONIA trademarks (including the P-6 logo) are
15 distinctive and famous within the meaning of the Trademark Dilution Revision Act
16 of 2006, 15 U.S.C. § 1125(c), and were famous prior to Defendant's adoption of the
17 Infringing Designs.

18 35. Defendant's conduct is likely to cause dilution of Patagonia's
19 PATAGONIA trademark by diminishing its distinctiveness in violation of the
20 Trademark Dilution Revision Act of 2006, 15 U.S.C. § 1125(c).

21 36. As a direct and proximate result of Defendant's conduct, Patagonia is
22 entitled to recover up to treble the amount of Defendant's unlawful profits and
23 Patagonia's damages, and an award of attorney's fees under 15 U.S.C. §§ 1116(a),
24 1117(a), and 1125(c).

25 37. Patagonia is entitled to injunctive relief pursuant to 15 U.S.C.
26 §§ 1116(a) and 1125(c) that requires Defendant to stop use of the Infringing
27 Designs, and any other mark or design similar to the PATAGONIA trademarks.

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FOURTH CLAIM

FEDERAL COPYRIGHT INFRINGEMENT

(17 U.S.C. §§ 101, *et seq.*, and 17 U.S.C. §§ 501, *et seq.*)

38. Patagonia realleges and incorporates by reference each of the allegations contained in paragraphs 1 through 37 of this Complaint.

39. Patagonia owns the copyright in its P-6 logo, which is federally registered and was registered prior to Defendant's copying.

40. Defendant has copied, advertised, offered for sale, and/or sold substantially similar copies of the P-6 logo without Patagonia's authorization or permission and in violation of Patagonia's exclusive rights in its copyright.

41. Defendant's unlawful reproduction, advertisement, distribution, and/or sale of Patagonia's proprietary design constitutes copyright infringement. Patagonia alleges that Defendant acted intentionally and in bad faith when he reproduced Patagonia's copyrighted work (in identical or substantially similar form), and advertised, distributed, displayed, and/or sold products bearing the Infringing Designs.

42. Defendant's infringement alleged herein has caused and, if not enjoined, will continue to cause Patagonia to suffer irreparable harm for which there is no adequate remedy at law, and has also caused damage to Patagonia in an amount which cannot be accurately computed at this time but will be proven at trial.

43. As a direct and proximate result of Defendant's conduct, Patagonia is entitled to injunctive relief, as well as actual damages and any profits earned by Defendant as a result of his infringements, or statutory damages of up to \$150,000 for each work infringed, at Patagonia's election, pursuant to 17 U.S.C. § 504.

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FIFTH CLAIM

TRADEMARK INFRINGEMENT AND UNFAIR COMPETITION

UNDER CALIFORNIA STATUTORY LAW

(Cal. Bus. & Prof. Code §§ 14200 *et seq.*; Cal. Bus. & Prof. Code § 17200 *et seq.*)

44. Patagonia realleges and incorporates by reference each of the allegations contained in paragraphs 1 through 43 of this Complaint.

45. Patagonia is the owner of numerous registrations for the PATAGONIA trademarks, as well as common law rights in those marks.

46. Defendant is using a design that infringes upon Patagonia's PATAGONIA trademarks without the consent of Patagonia and in connection with the sale, offering for sale, distribution, or advertising of his products bearing the Infringing Designs.

47. Defendant's infringement of Patagonia's PATAGONIA trademarks is likely to cause confusion, mistake, and deception as to the source of the origin of Defendant's offerings.

48. Defendant uses the Infringing Designs to enhance the commercial value of Defendant's offerings.

49. Defendant's acts violate Patagonia's trademark rights under California Business & Professions Code §§14245 *et seq.*

50. Defendant's conduct as alleged in this Complaint also constitutes "unlawful, unfair or fraudulent business act[s] or practice[s] and unfair, deceptive, untrue or misleading advertising" within the meaning of California Business & Professions Code §§ 17200 *et seq.*

51. Patagonia is entitled to monetary damages and injunctive relief prohibiting Defendant from using the Infringing Designs, or any other mark or design that is likely to be confused with the PATAGONIA trademarks.

52. Without injunctive relief, Patagonia has no means by which to control

1 the continuing injury to its reputation and goodwill or that of its PATAGONIA
 2 trademarks. Patagonia has been and will continue to be irreparably harmed. No
 3 amount of money damages can adequately compensate Patagonia if it loses the
 4 ability to control its marks.

5 53. Because Defendant's actions have been committed willfully,
 6 maliciously, and intentionally, Patagonia is entitled to treble the amount of
 7 Defendant's unlawful profits and Patagonia's damages under California Business &
 8 Professions Code § 14250.

9 **SIXTH CLAIM**

10 **TRADEMARK DILUTION UNDER CALIFORNIA LAW**

11 **(Cal. Bus. & Prof. Code § 14247)**

12 54. Patagonia realleges and incorporates by reference each of the allegations
 13 contained in paragraphs 1 through 53 of this Complaint.

14 55. Patagonia owns valid and protectable rights in its PATAGONIA
 15 trademarks (including the P-6 logo).

16 56. The PATAGONIA trademarks—registered marks in the state of
 17 California—are distinctive and famous within the meaning of the California Model
 18 State Trademark Law, Cal. Bus. & Prof. Code § 14247, in that it is a household
 19 brand in California, and were famous prior to Defendant's adoption of the Infringing
 20 Designs.

21 57. Defendant's acts are likely to dilute the distinctive quality of the
 22 PATAGONIA trademarks. Defendant's acts therefore constitute trademark dilution
 23 under California Business & Professions Code § 14247, the analogous statutes of
 24 other states, and under California common law.

25 58. Patagonia is entitled to monetary damages and injunctive relief
 26 prohibiting Defendant from using the Infringing Designs, and any other mark
 27 or design similar to the PATAGONIA trademarks. Without injunctive relief,
 28 Patagonia has no means by which to control the continuing dilution of the

1 PATAGONIA trademarks. Patagonia has been and will continue to be irreparably
2 harmed. No amount of money damages can adequately compensate Patagonia for
3 such harm.

4 59. Because Defendant's actions have been committed willfully,
5 maliciously, and intentionally, Patagonia is entitled to treble the amount of
6 Defendant's unlawful profits and Patagonia's damages under California Business &
7 Professions Code § 14250.

8 **SEVENTH CLAIM**

9 **TRADEMARK INFRINGEMENT UNDER CALIFORNIA COMMON LAW**

10 60. Patagonia realleges and incorporates by reference each of the allegations
11 contained in paragraphs 1 through 59 of this Complaint.

12 61. Patagonia owns valid and protectable rights in its PATAGONIA
13 trademarks at common law.

14 62. Defendant's conduct is likely to cause confusion, to cause mistake, or to
15 deceive as to the source of goods offered by Defendant, or as to affiliation,
16 connection, association, sponsorship, or approval of such goods and services, and
17 constitutes infringement of Patagonia's PATAGONIA trademarks at common law.

18 63. Defendant infringed Patagonia's PATAGONIA trademarks with
19 knowledge and intent to cause confusion, mistake, or deception.

20 64. Defendant's conduct is aggravated by that kind of willfulness, wanton-
21 ness, malice, and conscious indifference to the rights and welfare of Patagonia for
22 which California law allows the imposition of exemplary damages.

23 65. As a direct and proximate result of Defendant's activities, Patagonia has
24 suffered substantial damage.

25 66. Unless restrained and enjoined, the conduct of Defendant will further
26 impair the value of the PATAGONIA trademarks and Patagonia's business
27 reputation and goodwill. Patagonia has no adequate remedy at law.

28 67. Patagonia is entitled to monetary damages and injunctive relief

1 prohibiting Defendant from using the Infringing Designs, and any other mark or
2 design similar to the PATAGONIA trademarks.

3 68. Without injunctive relief, Patagonia has no means by which to control
4 the continuing injury to its reputation and goodwill or that of its PATAGONIA
5 trademarks. Patagonia has been and will continue to be irreparably harmed. No
6 amount of money damages can adequately compensate Patagonia if it loses the
7 ability to control its marks.

8 69. Because Defendant's actions have been committed willfully,
9 maliciously, and intentionally, Patagonia is entitled to recover reasonable attorneys'
10 fees and compensatory and punitive damages.

11 **EIGHTH CLAIM**

12 **BREACH OF CONTRACT UNDER CALIFORNIA COMMON LAW**

13 70. Patagonia Realleges and incorporates by reference each of the
14 allegations contained in paragraphs 1 through 68 of this Complaint.

15 71. Through the parties' settlement agreement, Defendant represented that
16 he stopped selling products bearing the designs that are the subject of this complaint
17 as of December 23, 2022, and agreed not to use the Infringing Designs or any other
18 designs that are "identical or similar to Patagonia's trademarks." Defendant made
19 these commitments in exchange for, and to induce, Patagonia's agreement to refrain
20 from pursuing its claims against Defendant at that time.

21 72. As a result of Defendant's breach of the agreement, Patagonia has
22 suffered damages and, in reliance of Defendant's promises, declined to seek further
23 relief that otherwise would have stopped Defendant's ongoing infringement and
24 dilution of Patagonia's marks, and infringement of Patagonia's copyrighted work.

25 73. Patagonia is entitled to damages caused by Defendant's promises, as
26 well as other damages based on the terms of the parties' prior agreement.

27 **PRAYER FOR JUDGMENT**

28 WHEREFORE, Patagonia prays that this Court grant it the following relief:

1 1. Adjudge that Defendant has infringed the PATAGONIA trademarks in
2 violation of Patagonia's rights under 15 U.S.C. § 1114;

3 2. Adjudge that Defendant has infringed the PATAGONIA trademarks in
4 violation of California statutory law;

5 3. Adjudge that Defendant has infringed Patagonia's common law rights
6 in the PATAGONIA trademarks;

7 4. Adjudge that Defendant has competed unfairly with Patagonia in
8 violation of Patagonia's rights under 15 U.S.C. § 1125(a);

9 5. Adjudge that Defendant has competed unfairly with Patagonia in
10 violation of California statutory law;

11 6. Adjudge that Defendant's activities are likely to dilute Patagonia's
12 famous PATAGONIA trademarks in violation of Patagonia's rights under 15 U.S.C.
13 § 1125(c) and/or California law;

14 7. Adjudge that Defendant has infringed Patagonia's copyright rights in
15 its P-6 design;

16 8. Adjudge that Defendant and his agents, employees, attorneys,
17 successors, assigns, affiliates, and joint venturers, and any person(s) in active
18 concert or participation with it, and/or any person(s) acting for, with, by, through or
19 under it, be enjoined and restrained at first during the pendency of this action and
20 thereafter permanently from:

21 a. Manufacturing, producing, sourcing, importing, selling, offering
22 for sale, distributing, advertising, or promoting any goods or services that display
23 any words or symbols that so resemble the PATAGONIA trademarks as to be likely
24 to cause confusion, mistake, or deception, on or in connection with any product that
25 is not authorized by or for Patagonia, including, without limitation, any product or
26 service that bears the Infringing Designs, or any other approximation of Patagonia's
27 trademarks;

28 b. Using any word, term, name, symbol, device, or combination

1 that causes or is likely to cause confusion, mistake, or deception as to the affiliation
 2 or association of Defendant or his products with Patagonia, or as to the origin of
 3 Defendant's goods, or any false designation of origin, false or misleading
 4 description or representation of fact, or any false or misleading advertising, or likely
 5 dilution of the PATAGONIA trademark;

6 c. Further infringing the rights of Patagonia in and to its
 7 PATAGONIA trademarks, or otherwise damaging Patagonia's goodwill or business
 8 reputation;

9 d. Further diluting the famous PATAGONIA trademarks;

10 e. Otherwise competing unfairly with Patagonia in any manner;

11 f. Further infringing Patagonia's copyright rights in its P-6 logo
 12 design, including by reproducing, distributing, or displaying such logo or any other
 13 logo or design that is substantially similar to the P-6 logo; and

14 g. Continuing to perform in any manner whatsoever any of the
 15 other acts complained of in this Complaint;

16 9. Adjudge that Defendant is prohibited from applying to register any
 17 trademark or service mark which is likely to be confused with, or that dilutes the
 18 distinctive quality of, Patagonia's PATAGONIA trademarks;

19 10. Adjudge that Defendant be required immediately to deliver to
 20 Patagonia's counsel his entire inventory of infringing products, including without
 21 limitation, patches and any other products, packaging, labeling, advertising and
 22 promotional material, and all plates, patterns, molds, matrices, files, data, and other
 23 material for producing or printing such items, that are in their possession or subject
 24 to their control and that infringe Patagonia's trademarks as alleged in this
 25 Complaint;

26 11. Adjudge that Defendant, within thirty (30) days after service of the
 27 Court's judgment, be required to file with this Court and serve upon Patagonia's
 28 counsel a written report under oath setting forth in detail the manner in which he has

1 complied with the judgment;

2 12. Adjudge that Patagonia recover from Defendant its damages and lost
3 profits, and Defendant's profits in an amount to be proven at trial;

4 13. Adjudge that Defendant be required to account for any profits that are
5 attributable to his illegal acts, and that Patagonia be awarded (1) Defendant's profits
6 and (2) all damages sustained by Patagonia, under 15 U.S.C. § 1117, plus
7 prejudgment interest;

8 14. Adjudge that the amounts awarded to Patagonia pursuant to 15 U.S.C.
9 § 1117 shall be trebled;

10 15. Adjudge that Patagonia recover from Defendant its damages based on
11 Defendant's copyright infringement, or statutory damages at Patagonia's election;

12 16. Order an accounting of and impose a constructive trust on all of
13 Defendant's funds and assets that arise out of his infringing, dilutive activities;

14 17. Adjudge that Patagonia be awarded its costs and disbursements
15 incurred in connection with this action, including Patagonia's reasonable attorneys'
16 fees and investigative expenses; and

17 18. Adjudge that all such other relief be awarded to Patagonia as this Court
18 deems just and proper.

19 DATED: August 23, 2023

Respectfully submitted,

20 VERSO LAW GROUP LLP

21
22 By: /s/ Ryan Bricker

23 GREGORY S. GILCHRIST
24 RYAN BRICKER
25 SOPHY J. TABANDEH
26 PAYMANEH PARHAMI

27 Attorneys for Plaintiff
28 PATAGONIA, INC.

DEMAND FOR JURY TRIAL

Patagonia, Inc. demands that this action be tried to a jury.

DATED: August 23, 2023

Respectfully submitted,

VERSO LAW GROUP LLP

By: /s/ Ryan Bricker

RYAN BRICKER

Attorneys for Plaintiff
PATAGONIA, INC.